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**From:** Medina, Dayana [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DDEA406F71F24558B60679DB3F5CE386-MEDINA, DAYANA]  
**Sent:** 6/4/2020 8:56:27 PM  
**To:** Young, Carl [young.carl@epa.gov]  
**Subject:** RE: Exemption of OMB determination for final rule of TX FIP, SAN 6979

Thanks Carl!

**Dayana Medina**

U.S. Environmental Protection Agency, Region 6  
Regional Haze and SO2 Section (ARSH)  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
214-665-7241

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**From:** Young, Carl <young.carl@epa.gov>  
**Sent:** Thursday, June 04, 2020 3:34 PM  
**To:** Medina, Dayana <Medina.Dayana@epa.gov>  
**Subject:** RE: Exemption of OMB determination for final rule of TX FIP, SAN 6979

Just a quick note that the Abstract is update.

Very pleased that Darryl updated the rationale for exempt status.

It's looking good!

Carl

Carl Young  
EPA Region 6 Air Quality Program  
(214) 665-6645

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**From:** Young, Carl  
**Sent:** Thursday, June 04, 2020 2:55 PM  
**To:** Medina, Dayana <Medina.Dayana@epa.gov>  
**Subject:** RE: Exemption of OMB determination for final rule of TX FIP, SAN 6979

That's sounds good. Karolina was able to get a Lotus Notes license.

Thanks for your nice note.

Carl

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**From:** Medina, Dayana <Medina.Dayana@epa.gov>  
**Sent:** Thursday, June 04, 2020 2:53 PM  
**To:** Young, Carl <young.carl@epa.gov>  
**Subject:** FW: Exemption of OMB determination for final rule of TX FIP, SAN 6979

Carl,

Just a quick update. From Darryl's email below it looks like he may have already updated the rationale for "exempt" status in ADP Tracker. If so, all that would be left to update is the abstract.

Thank you for doing this!

By the way, I know a lot of us turn to you when we have questions with ADP Tracker since you're one of only a few people who have access to ADP Tracker. I really appreciate it and I know you are very busy! So I'm going to ask Michael if there is any way I could get a Lotus Notes license so that I can get ADP Tracker access so I can help out whenever issues like this come up and we need quick updates in ADP Tracker.

Thanks!

**Dayana Medina**

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**From:** Adams, Darryl <Adams.Darryl@epa.gov>

**Sent:** Thursday, June 04, 2020 1:24 PM

**To:** Feldman, Michael <Feldman.Michael@epa.gov>; Medina, Dayana <Medina.Dayana@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>

**Cc:** Rivera, Reiniero <Rivera.Reiniero@epa.gov>; Timin, Brian <Timin.Brian@epa.gov>; Daly, Carl <Daly.Carl@epa.gov>; Manibusan, Mary <Manibusan.Mary@epa.gov>; Chang, Alice <Chang.Alice@epa.gov>

**Subject:** Exemption of OMB determination for final rule of TX FIP, SAN 6979

Thank you Michael, Dan for your confirmation. I'll mark the final rule as exempt in Tracker with the reasons below.  
Thanks all.  
Darryl

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**From:** Feldman, Michael <Feldman.Michael@epa.gov>

**Sent:** Thursday, June 04, 2020 2:15 PM

**To:** Medina, Dayana <Medina.Dayana@epa.gov>; Adams, Darryl <Adams.Darryl@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>

**Cc:** Rivera, Reiniero <Rivera.Reiniero@epa.gov>; Timin, Brian <Timin.Brian@epa.gov>; Daly, Carl <Daly.Carl@epa.gov>

**Subject:** RE: 2 TX actions next week

Yes, this is consistent with our discussions when we finalized the October 2017 rule that we are now affirming. The rule is a rule of particular applicability. The specific sources (at the unit level) that are impacted by this rule are clearly identified in the regulatory language.

We are now taking action to affirm that existing rule with some minor modifications to the trading program.

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**From:** Medina, Dayana <Medina.Dayana@epa.gov>

**Sent:** Thursday, June 04, 2020 1:11 PM

**To:** Adams, Darryl <Adams.Darryl@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>

**Cc:** Rivera, Reiniero <Rivera.Reiniero@epa.gov>; Feldman, Michael <Feldman.Michael@epa.gov>; Timin, Brian

<Timin.Brian@epa.gov>; Daly, Carl <Daly.Carl@epa.gov>

**Subject:** RE: 2 TX actions next week

I'll let Michael and others weigh in too if they'd like. This final rule affirms an existing rule with some modifications. And yes, the existing rule and the rule as we are modifying it only apply to specific, individual sources in Texas that are clearly identified in the rule.

**Dayana Medina**

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**From:** Adams, Darryl <Adams.Darryl@epa.gov>

**Sent:** Thursday, June 04, 2020 12:48 PM

**To:** Medina, Dayana <Medina.Dayana@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>

**Cc:** Rivera, Reiniero <Rivera.Reiniero@epa.gov>; Feldman, Michael <Feldman.Michael@epa.gov>; Timin, Brian <Timin.Brian@epa.gov>; Daly, Carl <Daly.Carl@epa.gov>

**Subject:** RE: 2 TX actions next week

Thanks Dayana. Some confusion maybe how OP uses the terms for significance.

If a rule is reviewed by OMB under 12866 then the rule is said to be significant.

If we ask OMB specifically for a non-significant determination and OMB agrees then we mark the non-significant request as confirmed by OMB in ADP Tracker. OMB review of the rule is canceled.

If OMB does not agree to the request, then the rule is sent to OMB for review under EO 12866.

If we do not ask OMB because EO 12866 review does not apply, then OP marks the determination exempt in ADP Tracker.

Some of the reasons for exemption are clear cut: Rule of Particular Applicability, etc. Below are the standard reasons.

Other times the reasons are not so clear and OP relies on the help of OGC attorneys to determine if an exemption exists.

In this case, Dan's reason are specific and OP just needs confirmation that his reasons are correct from R6.

Dayana and Carl: Do you agree with Dan's reasons? If so, we can safely mark the Final rule determination as exempt.

Darryl

Standard Exempt reasons:

**Keywords**

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Rule of Particular Applicability  
Approval of SIPs  
Air Quality Designations  
Approval of Equivalent Methods for Air Quality Monitoring  
Approval of NSPS, NESHAP, PSD Delegations  
Pesticide Tolerance  
TSCA Test Marketing Exemption  
FIFRA Registration Standards  
Approval of State Water Standard  
Approval of State UIC Programs  
NPDES Delegations  
Deletions from 307(a) List of Toxic Chemicals  
Approval of State Solid Waste Management Plans  
Approval of Delisting Petitions under RCRA  
Other

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**From:** Medina, Dayana <[Medina.Dayana@epa.gov](mailto:Medina.Dayana@epa.gov)>

**Sent:** Thursday, June 04, 2020 1:26 PM

**To:** Schramm, Daniel <[Schramm.Daniel@epa.gov](mailto:Schramm.Daniel@epa.gov)>; Adams, Darryl <[Adams.Darryl@epa.gov](mailto:Adams.Darryl@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Marks, Matthew <[Marks.Matthew@epa.gov](mailto:Marks.Matthew@epa.gov)>

**Cc:** Rivera, Reiniero <[Rivera.Reiniero@epa.gov](mailto:Rivera.Reiniero@epa.gov)>; Feldman, Michael <[Feldman.Michael@epa.gov](mailto:Feldman.Michael@epa.gov)>; Timin, Brian <[Timin.Brian@epa.gov](mailto:Timin.Brian@epa.gov)>; Daly, Carl <[Daly.Carl@epa.gov](mailto:Daly.Carl@epa.gov)>

**Subject:** RE: 2 TX actions next week

I believe in the past, for these type of BART FIP actions, Region 6 has said they are Non-Significant and cited to the reasons Dan Schramm outlined in his email. But I don't believe we've ever called them "Exempt." I think I may need to look into what the criteria are for labeling an action as "exempt" in order to be able to weigh in on whether the circumstances here meet that criteria.

**Dayana Medina**

U.S. Environmental Protection Agency, Region 6  
Regional Haze and SO2 Section (ARSH)  
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**From:** Schramm, Daniel <[Schramm.Daniel@epa.gov](mailto:Schramm.Daniel@epa.gov)>

**Sent:** Thursday, June 04, 2020 12:09 PM

**To:** Adams, Darryl <[Adams.Darryl@epa.gov](mailto:Adams.Darryl@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Marks, Matthew <[Marks.Matthew@epa.gov](mailto:Marks.Matthew@epa.gov)>

**Cc:** Rivera, Reiniero <[Rivera.Reiniero@epa.gov](mailto:Rivera.Reiniero@epa.gov)>; Medina, Dayana <[Medina.Dayana@epa.gov](mailto:Medina.Dayana@epa.gov)>; Feldman, Michael <[Feldman.Michael@epa.gov](mailto:Feldman.Michael@epa.gov)>; Timin, Brian <[Timin.Brian@epa.gov](mailto:Timin.Brian@epa.gov)>; Daly, Carl <[Daly.Carl@epa.gov](mailto:Daly.Carl@epa.gov)>

**Subject:** RE: 2 TX actions next week

I would look for a confirmation from R6, but I think that is correct.

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**From:** Adams, Darryl <[Adams.Darryl@epa.gov](mailto:Adams.Darryl@epa.gov)>

**Sent:** Thursday, June 4, 2020 1:07 PM

**To:** Schramm, Daniel <[Schramm.Daniel@epa.gov](mailto:Schramm.Daniel@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Marks, Matthew <[Marks.Matthew@epa.gov](mailto:Marks.Matthew@epa.gov)>

**Cc:** Rivera, Reiniero <[Rivera.Reiniero@epa.gov](mailto:Rivera.Reiniero@epa.gov)>; Medina, Dayana <[Medina.Dayana@epa.gov](mailto:Medina.Dayana@epa.gov)>; Feldman, Michael <[Feldman.Michael@epa.gov](mailto:Feldman.Michael@epa.gov)>; Timin, Brian <[Timin.Brian@epa.gov](mailto:Timin.Brian@epa.gov)>; Daly, Carl <[Daly.Carl@epa.gov](mailto:Daly.Carl@epa.gov)>

**Subject:** RE: 2 TX actions next week

Adding Carl Daly.

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**From:** Adams, Darryl

**Sent:** Thursday, June 04, 2020 1:05 PM

**To:** Schramm, Daniel <[Schramm.Daniel@epa.gov](mailto:Schramm.Daniel@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Marks, Matthew <[Marks.Matthew@epa.gov](mailto:Marks.Matthew@epa.gov)>

**Cc:** Rivera, Reiniero <[Rivera.Reiniero@epa.gov](mailto:Rivera.Reiniero@epa.gov)>; Medina, Dayana <[Medina.Dayana@epa.gov](mailto:Medina.Dayana@epa.gov)>; Feldman, Michael <[Feldman.Michael@epa.gov](mailto:Feldman.Michael@epa.gov)>; Timin, Brian <[Timin.Brian@epa.gov](mailto:Timin.Brian@epa.gov)>

**Subject:** RE: 2 TX actions next week

Thanks Dan for this new information. This is what I was trying to get to the bottom of. So OP can mark the Final rule as exempt under 12866 with reasons you cite below, correct?

Darryl

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**From:** Schramm, Daniel <Schramm.Daniel@epa.gov>

**Sent:** Thursday, June 04, 2020 1:02 PM

**To:** Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Adams, Darryl <Adams.Darryl@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>

**Cc:** Rivera, Reiniero <Rivera.Reiniero@epa.gov>; Medina, Dayana <Medina.Dayana@epa.gov>; Feldman, Michael <Feldman.Michael@epa.gov>; Timin, Brian <Timin.Brian@epa.gov>

**Subject:** RE: 2 TX actions next week

Adding Brian Timin in OAQPS and Michael Feldman in R6. My understanding (though I am not an EO 12866 expert) is that we have fairly consistently taken the view that our BART actions are party-specific (i.e., the actions cover specified, individual sources), and so are therefore not covered under the EO.

The petition denial is not a rulemaking action, so would not be covered by the EO.

Happy to talk more about these, if we need to have a discussion. Generally have availability this afternoon and tomorrow. Best, Dan

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**From:** Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

**Sent:** Thursday, June 4, 2020 12:57 PM

**To:** Adams, Darryl <Adams.Darryl@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>

**Cc:** Rivera, Reiniero <Rivera.Reiniero@epa.gov>; Medina, Dayana <Medina.Dayana@epa.gov>

**Subject:** RE: 2 TX actions next week

Hi Darryl. Happy to talk. I'm adding Dan Schramm, who is our lead attorney on this. Do you want to schedule a time for us all to talk?

+++++  
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(202) 695-6287 (c)

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**From:** Adams, Darryl <Adams.Darryl@epa.gov>

**Sent:** Thursday, June 4, 2020 12:34 PM

**To:** Marks, Matthew <Marks.Matthew@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

**Cc:** Rivera, Reiniero <Rivera.Reiniero@epa.gov>; Medina, Dayana <Medina.Dayana@epa.gov>

**Subject:** FW: 2 TX actions next week

Hi Matthew and Gautam,

I'm in the Office of Policy and helping with the upcoming signature for the Texas FIP rule (SAN 6979, TX RH BART FIP Reproposal). We may need to request a non-significant determination under the EO 12866. I was hoping to get your thinking on the Texas FIP on this issue. I'm confident that OMB would agree to the non-significant determination but perhaps OP can declare that this action is exempt under the EO and avoid having to ask. Do you have any time today to talk for a few minutes on this? Depending on your comments, I'm going to work R6 on writing up a non-significant rationale that OP can send to OMB. Thanks for your time.

Darryl Adams

Darryl Adams

Regulatory Management Division

Office of Policy, U.S. EPA

202 564-6569

Mail Code 1803A, Room 3512D WJC North

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**From:** Chang, Alice <[Chang.Alice@epa.gov](mailto:Chang.Alice@epa.gov)>  
**Sent:** Thursday, June 04, 2020 8:37 AM  
**To:** Adams, Darryl <[Adams.Darryl@epa.gov](mailto:Adams.Darryl@epa.gov)>  
**Cc:** Iglesias, Amber <[Iglesias.Amber@epa.gov](mailto:Iglesias.Amber@epa.gov)>  
**Subject:** 2 TX actions next week

Good morning, Darryl –

Per our discussion yesterday, we just wanted to give OP a heads up about 2 actions that are coming through next week that we hope to get signed on the same day (6/30). This bundle is unique because it contains 2 interrelated parts that are coming from different places. One is a final rule for a Texas FIP (SAN 6979), which will be coming from Region 6. The other is a notice for a denial of petition for reconsideration (SAN 7964), which will come from OAQPS. OAQPS and OGC have been working closely with R6 on this since the beginning, and I am told the two OGC contacts on this are Dan Tram and Matt Marks.

OAQPS is hoping to send our part up to OAR by 6/12, and R6 should be sending their part up at the same time. R6 is checking to see whether or not an OMB non-sig request has been submitted yet for this and they should get back to me this morning.

Let me know if there is any other information you need, or if you have any questions.

Thanks!  
Alice

Alice Chang  
U.S. Environmental Protection Agency  
Office of Air Quality Planning and Standards  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460  
202-564-2429

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**From:** Medina, Dayana <[Medina.Dayana@epa.gov](mailto:Medina.Dayana@epa.gov)>  
**Sent:** Monday, June 01, 2020 11:57 AM  
**To:** Morgan, Ruthw <[morgan.ruthw@epa.gov](mailto:morgan.ruthw@epa.gov)>; Adams, Darryl <[Adams.Darryl@epa.gov](mailto:Adams.Darryl@epa.gov)>  
**Cc:** Mcquilkin, Wendy <[Mcquilkin.Wendy@epa.gov](mailto:Mcquilkin.Wendy@epa.gov)>; Cyran, Carissa <[Cyran.Carissa@epa.gov](mailto:Cyran.Carissa@epa.gov)>  
**Subject:** R6 Federal Register Package for Administrator Signature

Hi Ruth and Darryl,

I wanted to give you a heads up that Region 6 will be sending up to OAR the Federal Register package for the final rule listed below around June 12. This action is in ADP Tracker (SAN 6979), and the Federal Register notice is for the Administrator's signature. There is also a Transmittal Memo that the Region 6 RA will sign and the Acting Assistant Administrator at OAR will sign as well and then send on up to the Administrator. At the moment, we are targeting June 12 for sending the package up to HQs. Our target date for the Administrator to sign the Federal Register notice is 6/30/20.

Is there anyone else I need to make aware about this Federal Register package?

Ruth- Do you know if Anne Idsal is able to sign the Transmittal Memo electronically, or is hand signature required? This will affect whether the Region 6 RA signs electronically or by hand.

Darryl- Do you know if this Federal Register notice would need to go through pre-publication review with OP before Region 6 sends it up to HQs? Or can this pre-publication review take place after we send up to HQs?

SAN	Working Title	Tier Level	Stage	OMB Significance	Signer	To OAR	To OP	To OMB	Signature Date	Notes
6979	Texas RH BART FIP Reproposal		Final Rule		Administrator	TBD			06/30/2020	

Thank you,

**Dayana Medina**

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